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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,487	06/06/2001	Tracy L. Francis	5127	7168

7590 05/31/2005  
Milliken & Company  
P. O. Box 1927  
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EXAMINER

SMITH, TRACI L

ART UNIT PAPER NUMBER

3629

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

<b>Application No.</b> 09/875,487	<b>Applicant(s)</b> FRANCIS ET AL.	
<b>Examiner</b> Traci L Smith	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on 15 March 2005.
- 2a)  This action is **FINAL**.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4)  Claim(s) 15-33 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 15-33 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \*    c)  None of:
- Certified copies of the priority documents have been received.
  - Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_.

### DETAILED ACTION

1. This action is in response to papers filed on March 25, 2005.
2. Claims 1-14 have been cancelled.
3. Claims 15, 22 and 27 have been amended.
4. Claims 28-33 have been added.
5. Claims 15-33 are rejected.

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 15-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2002/0002482 A1; Thomas. Method and Apparatus for Performing Surveys Electronically over a Network; hereinafter referred to as Thomas; in view of US Patent Publication 2002/0072993 A1; Sandus et al. Method and System of

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an Integrated Business Topography and Virtual 3-D Network Portal; hereinafter referred to as Sandus.

9. As to claims 15, 22 and 27 Thomas teaches communicating a survey to select participants and electronically receiving responses from participants(Pg. 1 ¶ 0012) and teaches tabulating and storing responses(Pg. 3 ¶ 0037 and Pg 4 ¶ 0052). However, Thomas fails to teach the use of an online shopping cart available at any point in the process. Sandus teaches an electronic wallet that allows the user to purchase items whenever it is convenient for the user.(Pg. 2 ¶ 0016). It would have been obvious to combine the teachings of Thomas with Sandus so as to make products available for purchase or as samples as two additional ways to gain market research on a product.

10. As to claim 16 Thomas teaches a method of tabulating and storing responses.(Pg. 3 ¶37).

11. As to claims 17 and 23 Thomas teaches selecting participants from a group(Pg. 4 ¶ 0047). It would have been obvious to one of ordinary skill in the art to select participants working in the field in which a company sells their products. Although Thomas doesn't explicitly teach the participants being within the architectural and design communities these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps would be performed regardless of the participants selected. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see in re

Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 44(Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ 2d 1031(Fed. Cir. 1994).

12. As to claims 18-19 and 24 Thomas teaches an email notification of an available survey to participants.(Pg. 5 ¶ 0062).

13. As to claims 20-21 and 25-26 Thomas teaches printable web documents with embedded code(Pg. 6 ¶ 68 and 76)

14. As to claims 28-29 and 31-32 Thomas teaches a survey system for products and market research. (Pg. 1 ¶ 5). Thomas does not explicitly teach using the information for promoting products. However, it would have been obvious to one skilled in the art at the time of invention that the use companies used information gained from surveys to determine how and what is going to be sold to their consumers.

15. As to claim 30 and 33 Thomas teaches a surveying tool however, Thomas fails to teach viewing the products in several different designs before purchase. Sandus teaches viewing from several different designs and angles. The examiner notes all though Thomas or Sandus do not explicitly teach the products described in the claim these product are intended use of the invention. It would have been obvious to one of ordinary skill in the art to combine the teaches and incorporate the specific type of products the company sells in order to gain valuable consumer product information.

***Response to Arguments***

16. Applicant's arguments with respect to claims 15-27 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

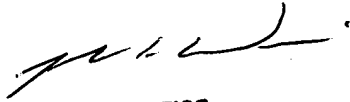
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L Smith whose telephone number is 572-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tls



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